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GOVERNMENT OF KERALA

Local Administration and Social Welfare 'G' Deparlment

NOTIFICATION

No. 56564/G2/75/LA&SWD. *Dated, Trivandrum, 11th January 1977.*

The following draft of the Greater Cochin Development Authority Rules, 1977 which the Government of Kerala propose to make in exercise of powers conferred by sub-section (1) of Section 53 of the Town Planning Act, 1108 (IV of 1108) read with Section 53F thereof and sub-section (1) of Section 54 of the Madras Town Planning Act, 1920 (Madras Act VII of 1920) read with Section 54F thereof is hereby published for general information as required by Section 42 of the Town Planning Act, 1108 (IV of 1108) and Section 44A of the Madras Town Planning Act, 1920 (Madras Act VII of 1920).

Notice is hereby given that the said draft will be taken up for consideration on or after one month from the date of publication of this notification and that any objection or suggestion which may be received in respect of the said draft before the date specified above will be considered by the Government. Objections and suggestions shall be addressed to the Special Secretary to Government, Local Administration and Social Welfare Department,, Secretariat, Trivandrum.

33/120/MC

DRAFT RULES

CHAPTER I

1. *Short title.*—These rules may be called the Greater Cochin Development Authority Rules, 1977.

2. *Definitions.*—In these rules, unless the context otherwise requires,—

(1) "Act" means the Town Planning Act, 1108 (IV of 1108) and the Madras Town Planning Act, 1920 (Madras Act VII of 1920);

(2) "Accounts" means the accounts maintained by the Authority;

(3) "Advance" means any sum sanctioned by the Authority as an advance to be recovered in such manner as the Authority may decide;

(4) "Auditor" means the Auditor appointed by the Authority or any of his authorised assistants;

(5) "Bank" means the bank approved by the Authority under these rules;

(6) "Chairman" means the Chairman of the Greater Cochin Development Authority;

(7) "Director of Panchayats" means the Director of Panchayats appointed under clause (7) of Section 2 of the Kerala Panchayats Act, 1960 (32 of 1960);

(8) "Director of Municipalities" means the Director referred to in clause (13) of Section 3 of the Kerala Municipalities Act, 1960 (14 of 1961);

(9) "Finance" means the receipts realised by the Authority from time to time;

(10) "Greater Cochin Development Authority" or the "Authority" means the Greater Cochin Development Authority constituted for the Greater Cochin Region under the Act;

(11) "Greater Cochin Region" or 'the Region' means the areas for which Greater Cochin Development Authority has been constituted under the Act and includes any other local area in respect of which the duty of carrying out the provisions of the Act is vested in the Authority from time to time;

(12) "Member" means a member of the Authority;

(13) "Revolving Fund" means the fund established and maintained by the Authority for the purpose of administering the provisions of the Act as assigned to the Authority;

(14) "Secretary" means the Secretary of the Authority under the Act;

(15) "Year" means the financial year commencing on the first day of April.

CHAPTER II

ELECTION OF MEMBERS

3. *Election of Members by Corporation Council.*—(1) As soon as may be after the constitution of the Authority or after the occurrence of a vacancy or vacancies in the seats in the Authority assigned to the Corporation of Cochin, the Chairman shall require the Commissioner of the Corporation to arrange for the election of the required number of members by the Corporation Council.

(2) (a) The election of members by the Corporation of Cochin shall be held in accordance with the provisions of the Kerala Municipal Corporations (Election of Mayor and Deputy Mayor) Rules, 1962.

(b) A meeting of the Corporation Council for the purpose of clause (a) shall be convened by the Commissioner and shall be presided over by the Mayor of the Council and in his absence by the Deputy Mayor. In case both the Mayor and the Deputy Mayor are absent one member of the Council chosen by the meeting shall preside over the meeting.

4. *Election of Members by Municipal Councils.*—(1) As soon as may be, after the constitution of the Authority or after the occurrence of a vacancy or vacancies in the seats assigned to the Municipalities having jurisdiction in the area for which the Authority has been constituted the Chairman shall require the Director of Municipalities to arrange for the election of the required number of members by the Councillors of the Municipalities concerned from among themselves.

(2) (a) Where a Member or Members have to be elected by the Councillors of one or more than one Municipality the election of the Member or Members by the Councillors of the Municipalities shall be held in accordance with the provisions hereinafter mentioned.

(b) The Councillors of the Municipalities concerned shall form the electorate for the purpose of the election. The Director of Municipalities shall prepare and publish a list of such electors on the notice board of his office and the Municipal offices concerned. The Director of Municipalities shall by notice call for nominations from the Councillors of the Municipalities concerned in writing to reach him before such date and time as may be specified in the notice, such date being not less than seven days from the date of publication of the notice in the Municipal offices concerned.

(c) A candidate for election to the Authority shall be proposed by an elector included in the list published by the Director of Municipalities and the candidate shall indicate in the nomination form. his willingness to serve the Authority if elected.

(d) As soon as may be after the time fixed for receipt of nominations is over, the Director of Municipalities shall prepare a list of nominations received and publish copies of the same on the notice boards of his office and the Municipal offices concerned.

(e) After the publication of the list of nominations, the Director of Municipalities shall send by post under certificate of posting to each elector a ballot paper signed by him on which the names of all the candidates shall be printed, typed or legibly written in ink in the following form:—

Sl. No.	*Name of candidate*
1.	
2.	
3.	
4.	
etc.	

(f) The ballot papers sent to the electors under clause (e) shall be serially numbered. The serial number of the ballot papers issued shall be noted against the name of the elector to whom it is issued, in a copy of the list of electors at the time of issue and this copy shall be kept in a sealed cover in the custody of the Director of Municipalities and shall be opened only if there is any complaint and by a competent authority or by a court of law.

(g) Every elector wishing to vote shall place a mark 'X' against the name of the candidate for whom he wishes to vote and return the ballot paper so marked in a sealed cover to the Director of Municipalities by registered post, to reach him before such time and date as may be fixed for the purpose. Each elector shall have only one vote irrespective of the number of vacancies to be filled up. Any ballot paper on which the mark 'X' is placed against more than one name shall be treated as invalid. Strict secrecy shall be maintained by the electors in marking ballot papers. On the day next to the day fixed for the receipt of the ballot papers from the electors, the Director of Municipalities shall open the sealed covers containing the ballot papers at such time and place as may be fixed by him under intimation to the candidates in the presence of the candidates or their authorised agents who are present and count the

votes cast and declare the results of the election in accordance with the following instructions:

(i) If there is only one vacancy, the candidate who secures the largest number of votes shall be declared to have been elected. In the event of there being an equality of votes between two candidates, the Director of Municipalities shall draw lots in the presence of the candidates and the person whose name is first drawn shall be declared to have been elected.

(ii) If there are two or more vacancies, such number of candidates equal to the number of vacancies who secure largest number of votes shall be declared to have been elected.

(3) On the declaration of the results of election under clause (g) of sub-rule (2), the Director shall intimate the Government the name or names of the candidates declared elected and a copy of the list of the names of the persons shall also be sent to the Secretary.

5. *Election of Members by Panchayats.*—(1) As soon as may be after the constitution of the Authority or after occurrence of a vacancy or vacancies in the seats assigned to the Panchayats having jurisdiction in the area for which the Authority has been constituted, the Chairman shall require the Director of Panchayats to arrange for the election of the required number of Members by the members of the Panchayats concerned from among themselves.

(2) The provisions of sub-rules (2) and (3) of rule 4 shall mutatis-mutandis apply to the election of members of the Authority by the members of the Panchayats:

Provided that the duties and powers exercisable by the Director of Municipalities in the said sub-rules in the matter of election of members by the Municipal Councils shall be exercised by the Director of Panchayats in the matter of election of Members by the Panchayats.

6. *Election of Member by Chambers of Commerce.*—(1) As soon as may be after the constitution of the Authority or on the occurrence of a vacancy in the seats assigned to the Chambers of Commerce, the Chairman shall require the Secretary, to conduct the election of a Member or members by the Chambers of Commerce in the Region registered under the Indian Companies Act.

(2) The election of the Member under sub-rule (1) shall be held at a meeting of the Members of the Executive Committees or Managing Committees of all the Chambers of Commerce in the Region specially convened for the purpose by the Secretary on such date, place and time as may be fixed by him and the Secretary, shall preside over the meeting.

(3) Each member of the Executive Committees of the Chambers of Commerce attending the meeting shall produce a letter from

the President of the Chamber of Commerce concerned certifying the identity of the person and his eligibility to attend the meeting.

(4) Every candidate for the election shall be proposed in writing by a member of the Executive Committee of a Chamber of Commerce and seconded by another such member. A candidate who has been proposed and seconded may withdraw his candidature by making a written statement to that effect at the meeting. The Secretary shall scrutinise whether the candidates proposed and seconded and who have not withdrawn their candidature suffer from any of the disqualifications referred to in clauses (b), (c) or (f) of Sub-section (1) of Section 47 of the Town Planning Act, 1108 or clause (b), (c) or (f) of sub-section (1) of Section 48 of the Madras Town Planning Act, 1920. On such scrutiny, if it is found that any of the candidate is disqualified for election as Member, his nomination shall be rejected. The Secretary shall prepare a list of candidates who have been proposed and seconded and who have not withdrawn their candidature and whose nominations have not been rejected and shall read it out at the meeting.

(5) If there is only one candidate, the Secretary shall declare him duly elected. If there are more than one candidate a poll of the members present and wishing to vote shall be taken by secret ballot.

(6) Every member wishing to vote shall be supplied with a ballot paper on which the names of all the candidates shall be printed, typed or legibly written in the following form:—

Sl. No.	*Name*	*Vote*
1.		
2.		
3.		
4.		

(7) Every member wishing to vote shall then proceed to the place set apart for the purpose and then place a mark 'X' against the name of the candidate for whom he wishes to vote. He shall then fold up the ballot paper so as to conceal his vote and deposit the same in a ballot box placed in the view of the President of the meeting and so constructed that the paper may be placed therein but not extracted therefrom without the box being opened. The Secretary shall then open the box and count the votes in the presence of the members and declare the results of the election in accordance with the following:

(i) If there is only one vacancy, the candidate who secures the largest number of votes shall be declared to have been elected. In the event of there being an equality of votes between the two

candidates, the Secretary shall draw lots in the presence of the electors and person whose name is first drawn shall be declared to have been elected.

(ii) If there are two or more vacancies such number of candidates equal to the number of vacancies who secure the largest number of votes shall be declared to have been elected.

(8) Any voting paper which contains the signature or writing of any of the voting members or which the Mark 'X' is placed against more than one name, shall be treated as invalid.

(9) Immediately after declaring the result of the election at the meeting, the Secretary shall forward the name of the person or names of persons elected to the Authority and to the Government for nominating him or them as the case may be, as member or members of the authority under sub-section (2) of Section 53 B of the Act.

7. *Disqualification of persons to be elected or nominated or appointed as member.*—A person shall be disqualified for election or nomination or appointment as a Member if he suffers from any of the disqualifications referred to in clause (b), (e) and (f) of sub-section (1) of Section 47 of Town Planning Act, 1108 or clause (b), (c) or (f) of sub-section (1) of Section 48 of the Madras Town Planning Act, 1920.

8. *Election, nomination or appointment of Members to be notified.*—The appointment, election or nomination, as the case may be, of the Chairman and the other Members shall be notified in the Gazette.

9. *Arbitration of disputes.*—If any dispute arises in the election or nomination of a Member under these rules, the matter shall be referred to Government whose decision thereon shall be final.

10. *Resignation of Members.*—A member other than officers of the Government nominated by Government under the Act may resign his office by giving notice in writing addressed to the Chairman.

11. *Acts of Authority not be invalidated by informality or vacancy etc.*—No act done or proceedings taken by the Authority shall be invalidated merely on the ground.

(a) of any vacancy or defect in the constitution of the Authority; or

(b) of any defect or irregularity in the appointment of a person acting as a member thereof; or

(c) of any defect or irregularity in such act or proceeding not affecting the merits of the case.

CHAPTER III.

MEETINGS OF THE AUTHORITY

12. *Meetings of the Authority.*—The Members shall meet and shall from time to time make such arrangements with respect to the place, day, hour, notice, management and adjournment of the meetings of the Authority as they may think fit, subject to the following provisions, namely:—

(a) an ordinary meeting shall be held at least once in every month; and such meeting shall be convened by the Secretary and the agenda for the same prepared by him;

(b) the Chairman may, whenever he thinks fit, and shall upon the written request of not less than five members, call a special meeting:

Provided that no business other than what is contained in the request by the Members shall be transacted at a special meeting called by the Chairman upon such written requests;

(c) no business shall be transacted at any meeting unless there be present at least one third of the number of Members then in office.

(d) every meeting shall be presided over by the Chairman, in his absence by a member nominated by him or a member chosen by the meeting to preside for the occasion in the absence of nomination by the Chairman.

(e) all questions at any meeting shall be decided by a majority of the members present and voting at the meeting and in every case of equality of votes, the person presiding shall have and exercise a second or casting vote.

(f) if a poll is demanded, the names of the Members voting and the nature of their votes shall be recorded by the person presiding;

(g) minutes of the proceedings at each meeting, together with the names of the members present, shall be recorded in a book to be maintained for the purpose and such minutes shall be read at the next meeting and shall be signed by the person presiding;

(h) the Secretary may issue copies of the proceedings and records of the Authority on payment of such fees as may be fixed

by the Authority. Copies shall be certified by the Secretary as provided in Section 76 of the Indian Evidence Act, 1872 (Central Act 1 of 1872) and copies so certified shall be used to prove the records of the Authority in the same manner as the proceedings of a Municipal body may be proved under sub-section (5) of Section 78 of the said Act.

13. *Power of Authority to Co-opt members for particular purposes.*—(1) The Authority may, associate with itself, in such manner and for such period as it may decide any person or persons whose assistance or advice it may desire for carrying out any of the purposes for which the Authority is constituted:

Provided that the number of persons so associated shall not be more than five.

(2) A person so associated shall not be deemed to be a member of the Authority and shall have no right to vote at any meeting thereof, but he may take part in the discussions of the Authority relating to the subject or subjects for which he was associated with the Authority.

14. *Members and associated members of the Authority not to take part in proceedings in which they are personally interested.*—(1) A Member or a person associated with the Authority under rule 13 who—

(a) has directly or indirectly, by himself or by any partner, employer or employee, any such share or interest as is described in the proviso to clause (f) of sub-section (1) of Section 47 of the Town, Planning Act, 1108 or clause (f) of sub-section (1) of Section 48, of the Madras Town Planning Act, 1920.

(b) has acted professionally, in relation to any matter, on behalf of any person having therein any such share or interest as aforesaid, shall not vote or take any other part in any proceeding of the Authority relating to such matter.

(2) If any Member or any person associated with the Authority under rule 13 has, directly or indirectly any beneficial interest in any land situated in an area comprised in any improvement scheme framed by the Authority or in an area in which it is proposed to acquire land for any of the purposes of the Authority—

(a) he shall, before taking part in any proceedings at a meeting of the Authority inform the person presiding at the meeting of the nature of such interest.

(b) he shall not vote at any meeting of the Authority upon any resolution or question relating to such land; and

(c) he shall not take any other part in any proceeding relating to such area at a meeting of the Authority if the person presiding at the meeting considers it inexpedient that he should do so.

CHAPTER IV

CONSTITUTION OF COMMITTEES OF THE AUTHORITY

15. *Constitution of Committees.*—(1) The Authority may from time to time, constitute committees consisting of such persons of any of the following classes, as it, may think fit, namely:—

(a) Members;

(b) Persons associated with the Authority under rule 13;

(c) Officers of the Authority whose assistance or advice as Members of Committees is considered desirable by the Authority:

Provided that no Committee shall consist of less than three persons:

Provided further that the Secretary shall be the ex-officio member and convener of every Committee constituted under this rule.

(2) (a) The Authority may, at any time, dissolve, or, subject to the provisions of sub-rule (1), alter the constitution of any such committee.

(b) Every Committee shall conform to the instructions given to it by the Authority from time to time.

(c) All proceedings of every such Committee shall be subject to confirmation by the Authority unless the Authority has by resolution delegated to the Committee any of its powers or duties,

16. *Functions of Committees.*—(1) The Authority may—

(a) refer to any such Committee, for enquiry and report, any matter relating to any of the purposes for which the Authority is constituted; and

(b) delegate to any such Committee, by specific resolution any of the powers and duties of the Authority subject to such conditions as may be specified by the Authority.

(2) Every meeting of the Committee shall be presided over by the Chairman if he is a member of the Committee, and if he is not a member or is absent from the meeting, by a member chosen by the meeting to preside for the occasion.

(3) No business shall be transacted at any meeting of a Committee unless there be present not less than one-third of the number of the members constituting the Committee.

(4) All questions at any meeting of a Committee shall be decided by a majority of the members present and voting at the meeting and in every case of equality of votes the persons presiding shall have and exercise a second or casting vote.

17. *Members of Committee not to take part in proceednigs in which they are personally interested.*—(1) Any member of a Committee who—

(a) has directly or indirectly, by himself or by any partner, employer or employee, anv such share or interest as is described in the proviso to clause (f) of sub-section (1) of Section 47 of the Town Planning Act, 1108 or clause (f) of sub-section (1) of Section 48 of the Madras Town Planning Act, 1920;

(b) has acted professionally in relation to any matter, on behalf of any person having therein any such share or interest as aforesaid; shall not vote or take any other part in any proceedings of any Committee relating to such matter.

(2) If any member of a Committee has directly or indirectly any beneficial interest in any land situated in an area comprised in any improvement scheme framed by the Authority or in an area in which it is proposed to acquire land for any of the purposes of the Authority.

(a) he shall, before taking part in any proceeding at a meeting of the Committee relating to such area, inform the person presiding at the meeting of the nature of such interest;

(b) he shall not vote at any meeting of the Committee upon any resolution or question relating to such land; and

(c) he shall not take any other part in any proceedings relating to such area at a meeting of the Committee if the person presiding at the meeting considers it inexpedient that he should do so.

CHAPTER V

ESTABLISHMENT

18. *Creation of posts by the Authority.*—The Authority shall have powers to create posts the maximum pay of which does not exceed Rs. 1500 p.m. and with the approval of Government the posts the maximum pay of which exceeds Rs. 1500 p.m. in the establishment of the Authority as it considers necessary for the efficient performance of its functions:

Provided that the Authority shall obtain the prior approval of Government in the matter relating to revision of scale of pay, T.A., D.A. etc., of its employees.

19. *Allowance to non-official members.*—(1) A non-official member of the Authority or of a Sub Committee shall be paid by the Authority—

(a) daily allowance at the rate of Rs. 25 per day for attending a meeting of the Authority or Sub-Committee as the case may be; and

(b) travelling allowance at such rate as is admissible to a first grade officer of the State Government in the case of members residing outside the limits of Corporation of Cochin.

(2) *Travel outside India.*—The Authority shall obtain the prior approval of Government for travel outside India, on business tour or otherwise of the members/employees of the Authority.

20. *Maintenance of Schedule of Establishment.*—(1) The Secretary shall prepare and place before the Authority a schedule of establishment before the 1st day of May of every year showing the number, designation and grade of the officers and subordinates (other than the employees who are paid by the day or whose pay is charged to temporary work) who in his opinion constitute the establishment for the Authority and embodying his proposals with regard to salaries, fees and allowances payable to them.

(2) The Authority may either approve or amend such schedule as it thinks fit.

21. *Appointments and punishments.*—(1) Subject to the provisions of sub-rule (2) and to such restrictions as may be laid down by the Government, the power of making appointments and promotions of the officers and servants, of imposing any of the punishments mentioned in the Kerala Civil Service (Classification, Control and Appeal) Rules, 1960 on any of the officers or servants of the Authority for any breach of departmental rules or discipline or for carelessness, unfitness, neglect of duty or other misconduct

and of discharging any such officer or servant from the service of the Authority for any other reason, shall be exercised by the following authorities, namely:—

(a) in the case of posts the minimum monthly basic pay of which does not exceed seven hundred and fifty rupees and the officers and servants holding such posts, by the Secretary;

(b) In the case of posts the minimum monthly basic pay of which exceeds seven hundred and fifty rupees but does not exceed one thousand two hundred rupees and the officers and servants holding such posts by the Chairman;

(c) In the case of posts the minimum monthly basic pay of which exceeds rupees one thousand two hundred but the maximum of which does not exceed one thousand five hundred rupees and the officers and servants holding of such posts, by the Authority:

Provided that the Chief Engineer of the Authority shall be appointed by the Authority with the previous approval of the Government:

Provided further that the power to impose any penalty on an officer or servant of the Central Government or the State Government or of a local authority whose services have been lent to the Authority, shall be exercised only by the authority which would have been competent to do so, if his services had not been so lent, and the Secretary or the Chairman or the Authority, as the case may be shall be entitled only to make a recommendation in this behalf to such authority.

(2) An officer or servant of the Authority against whom an order has been passed under sub-rule (1) imposing any penalty may appeal against such order within two months from the receipt by him of the order.

(a) to the Chairman, if the order has been passed by the Secretary;

(b) to the Authority, if the order has been passed by the Chairman; and

(c) to the Government, if the order has been passed by the Authority.

(3) The Secretary may, pending enquiry, suspend any officer or servant of the Authority:

Provided that he shall forthwith report the matter to the Authority competent to inflict the punishment on such officer or servant under sub-rule (1) of this rule if he is not such authority.

22. *Extension of the jurisdiction of the Vigilance Division/ Finance Inspection (Works) Wing.*—The Vigilance Division of the State Government shall have jurisdiction in the matter of conducting investigation and enquiries into allegations of corruption, misconduct, misuse of power and other irregularities on the part of the officers and servants of the Authority. The Finance Inspection (Works) Wing shall have jurisdiction to carry out investigations and enquiries into the works undertaken by the Authority and also to inspect offices under the Authority.

23. *Promotions.*—(1) Promotion to posts declared as selection posts shall be made on grounds of qualifications and merit, seniority being considered only where the qualifications and merit are approximately equal.

(2) Promotions to non-selection posts shall be made in accordance with strict seniority, except—

(a) Where a senior does not possess the qualifications prescribed for holding the higher post or is definitely proved to be incompetent to hold such post; or

(b) Where on account of his proved serious misconduct it is considered undesirable to promote the senior.

24. *Qualifications and method of recruitment.*—(1) The Authority shall, with the prior approval of the Government, fix the qualifications and method of recruitment to the various posts under it.

(2) Where no qualifications have been fixed under sub-rule (1) the qualifications fixed for posts of similar standing and status under the Government shall be followed.

(3) No person shall be appointed to a post under the Authority if he does not possess the qualifications fixed for that post under sub-rule (1) or sub-rule (2):

Provided that the Authority may relax the qualifications in the case of officers and servants of the Central Government or State Government or of a local authority deputed to the Authority on foreign service conditions.

25. *Executive Powers of the Secretary.*—Subject to the instructions, conditions and limitations expressly imposed by the Act and the Rules, the executive power for the purpose of carrying out of the provisions of the Act shall be vested in the Secretary.

26. *Custody of records.*—The Secretary or the officer authorised by him shall be responsible for the custody of all the records of the Authority including all papers and documents connected with the proceedings of the meetings of the Authority and committees thereto

27. *Pay and allowances of Secretary.*—The pay and allowances of the Secretary as may, from time to time, be fixed by Government shall be paid from the funds of the Authority and contribution towards his leave salary and pension to the extent required shall be credited monthly to the State Fund by the Authority if the Secretary is appointed on deputation from Government Service.

28. *Leave of Secretary.*—Leave may be granted to the Secretary by the Government and when such leave is sanctioned, Government may nominate any Officer of the Authority to hold charge of the office of the Secretary or appoint a substitute.

29. *Control of the establishment of the Authority by the Secretary.*—The Secretary shall exercise supervision and control over the acts and proceedings of all the officers and servants of the Authority, subject to such rules and orders as may be in force from time to time and shall dispose of all questions relating to the service of the said employees and their salaries, allowances and privileges.

30. *Delegation of powers.*—(1) The Secretary may by general or special order in writing delegate to any officer of the Authority any of his powers, duties or functions under these rules.

(2) The exercise or discharge by any officer of any powers, duties or functions delegated to him under sub-rule (1) shall be subject to such restrictions, conditions and limitations as may be laid down by the Secretary and shall also be subject to his control and revision.

31. *Power to grant leave to establishment.*— Leave may be granted to the members of the establishment of the Authority by the Secretary.

32. *Service conditions applicable to officers and servants of the Authority.*—Save as otherwise provided in these rules the provisions of Part I and II of the Kerala Service Rules, the Kerala State and Subordinate Service Rules, 1958, the Kerala Civil Services (Classification, Control and Appeal) Rules shall apply *mutatis mutandis* to employees of the Authority:

Provided further, that the Authority shall obtain the prior approval of Government for the rules which they may make concerning the conditions of service, Provident Fund and other rules applicable to its employees.

Powers assigned to the Government and the Head of the Departments under the above Rules shall be exercised in the case of employees of the Authority by the Authority and the Secretary respectively.

CHAPTER VI

FINANCE (GENERAL)

33. *Authority's fund.*—(1) The Authority shall have and maintain its own fund to which shall be credited:—

(a) all moneys received by the Authority from the Government by way of grants, loans, advances or otherwise;

(b) all moneys borrowed by the Authority from sources other than the Government by way of loans or debentures or advance;

(c) all moneys and charges received by the Authority under the Act and the rules framed thereunder;

(d) all moneys received by the Authority by way of rents and profits or in any other manner or from any other source.

(2) The fund shall be applied towards meeting the expenses incurred for the performance of the functions of the Authority.

(3) The Authority may keep in current account in any Scheduled Bank or any Bank approved by the Authority in this behalf or in the Government Treasury Savings Account such money as may be decided by the Authority from time to time and any money in excess of the said sum shall be invested in securities and fixed deposits.

(4) All deposits and investments shall be made by the Secretary on behalf of the Authority, and the Secretary may at any time withdraw any deposit so made or dispose of any securities and redeposit or reinvest the money so withdrawn or the proceeds of the disposal of such securities.

(5) All money transactions relating to the Authority shall immediately and without any reservation be brought to account in the books of the Authority and all moneys received other than moneys withdrawn from the treasury or bank to meet current expenditure shall, without delay, be paid in full into the treasury or bank credited to the appropriate account and shall not be utilised to meet current expenditure.

(6) The Government may make such grants, advances and loans to the Authority as the Government may deem necessary for the performance of the functions of the Authority and all grants, loans and advances made shall be on such terms and conditions as the Government may determine.

(7) The Authority may receive advances from the applicants for allotment of land or built up space.

34. *Estimates of income and expenditure to be laid annually before the Authority.*—(1) The Secretary shall, at a special meeting to be held in the month of February in each year, lay before the Authority an estimate of the income and expenditure of the Authority for the ensuing year.

(2) Every estimate under sub-rule (1) shall—

(a) make provision for the due fulfilment of all the liabilities of the Authority and for the efficient administration of the Authority;

(b) differentiate capital and revenue expenditures and shall be prepared in such form and shall contain such details as the Authority may from time to time, direct; and

(c) be printed and a copy thereof sent to each member at least ten clear days before the date of the meeting at which the estimate is to be laid before the Authority.

35. *Approval of the Authority to estimates.*—The Authority shall consider every estimate laid before it under rule 34 and shall sanction the same either without alteration or with such alterations as it may think fit.

36. *Approval of Government to estimate.*—(1) Every estimate sanctioned by the Authority under rule 37 shall be submitted to the Government.

(2) Prior approval of the Government must be obtained for the estimates, in case there is an element of deficit which is proposed to be made up by obtaining funds from Government.

37. *Supplementary estimate.*—(1) The Authority may, at any time during the year for which any estimate has been sanctioned, cause a supplementary estimate to be prepared and laid before it at a special meeting.

(2) The provisions of Rules 34, 36 and 40 shall apply to every supplementary estimate.

38. *Reappropriations and emergent expenditure.*—No expenditure—

(a) not covered by any provision in the sanctioned budget estimate; or

(b) likely to cause excess over the amount provided under any head, shall be incurred without provision being made by reappropriation from some other head under which savings are ascertained or anticipated or from surplus over the statutory closing balance:

Provided that the Chairman may, in emergent cases, incur inevitable expenditure but shall make a report to the Authority at its next meeting together with an application for reappropriation of funds.

39. *Form of statement of reappropriation.*—All applications for reappropriation of funds shall be made in the form fixed for this purpose with a detailed explanation for the expenditure incurred.

40. *Transmission of copies of estimates to the auditor and local authorities.*—(1) The Authority shall submit two copies of its budget estimates as approved by the Government to the Accountant General and to the auditor every year. One copy of the reappropriation statement shall also be furnished to the Auditor.

(2) A copy each of the budget estimate shall be sent by the Secretary to every local authority within the Region.

41. *Adherence to estimate.*—No sum shall be expended by or on behalf of the Authority unless the expenditure of the same is covered by a current budget grant or can be met by reappropriation.

42. *Purposes to which Authority's fund can be applied.*—(1) The purposes to which the Authority's fund may be applied include all objects connected with the responsibilities of the Authority under the Act and Rules and every thing incidental to the administration.

43. *Safe Custody of Funds.*—The cash balance on hand shall be deposited within 7 days in the Bank or the Treasury in which the Authority is having accounts and the deposit and withdrawal of money out of the cash balance shall be made by the Secretary or an officer authorised by him in this behalf.

44. *Permanent advance.*—(1) All petty expenses not exceeding fifty rupees shall be made out of the permanent advance. The Secretary shall have a permanent advance of one thousand rupees to meet petty expenses. An imprest register in the prescribed form shall be maintained to note the transactions relating to the amount.

(2) When a payment is to be made from the permanent advance, a payment order shall be made by the officer holding the advance on the vouchers relating to the charge.

(3) The permanent advance shall be reimbursed in a contingent bill drawn by the Secretary in his favour.

45. *Power of Authority and Secretary to incur expenditure.*—Subject to budget provision and availability of funds, expenditure may be incurred on any single work or schemes for carrying out any of the purposes of the Act.

(i) by the Secretary, in case such expenditure does not exceed two lakhs of rupees; and

(ii) by the Chairman, in case the expenditure exceeds rupees two lakhs but not more than rupees five lakhs;

(iii) by the Authority in other cases:

Provided that prior approval of Government should be obtained for any programme of capital expenditure for an amount which exceeds Rs. 10 lakhs in cases where it does not form part of the sanctioned scheme.

46. *Power of Authority and Secretary to approve estimates.*—The Authority or the Chairman or the Secretary may accord administrative sanction to estimates for incurring expenditure on any work or scheme for carrying out any of the purposes of the Act subject to like restrictions and conditions imposed on the Authority or the Chairman or the Secretary, as the case may be, under rule 45.

47. *Power of Authority to deterimne whether works shall be executed by contract.*—The Authority may determine either generally for any class of cases or specially for any particular case whether the Secretary shall execute works by contractor or otherwise.

48. *Provisions as to execution of contract.*—(1) Every contract entered into by the Secretary or by any other officer authorised in this behalf shall be entered into in such manner and in such forms as would bind him if it were made on his own behalf and may in like manner and form be varied or discharged:

Provided that prior approval of Government shall be obtained before entering into agreements involving foreign collaborations:

Provided further that every contract for the execution of any work or of the supply of any materials or goods which involve an expenditure exceeding Rs. 5,000 shall be in writing and shall be sealed with the common seal of the Authority.

(2) The common seal of the Authority shall remain in the custody of the Secretary or any other officer authorised in this behalf and shall not be affixed to any contract or other instrument except in the presence of the Secretary or such authorised officer and the Secretary or any other officer authorised in this behalf shall sign every contract or instrument for and on behalf of the Authority.

(3) No contract executed otherwise than as provided in this rule shall be binding on the Authority.

WORKS, CONTRACTS AND LOANS

49. *Preparation of design and estimates of works.*—(1) No works shall be commenced until a detailed estimate is prepared and technical and administrative sanction accorded by the Authority competent to give such sanction under these rules:

Provided that the detailed estimate and technical sanction may be dispensed with in the case of petty construction, reconstruction and maintenance of which the estimated cost, in each case, does not exceed Rs. 1,000:

Provided further that the Secretary may in cases of emergency direct the execution of any work or doing of any act which would ordinarily rquire the sanction of the Authority, and the immediate execution or doing of which is, in his opinion necessary for the services of the public.

(2) Plans and estimates for the works shall ordinarily be prepared by or under the supervision of the Engineer of the Authority.

(3) In special cases, if the circumstances so require, the Authority may entrust the preparation of plans including layout, architectural drawings, structural designs and estimates to competent private Engineer or architect or consultant:

Provided that prior approval of the Government must be obtained for appointment of private Engineer or architect or consultant whose fee exceeds Rs. one lakh..

(4) The Authority may by special resolution specify the officers and the financial limits within which each of such officer may accord administrative or technical sanction to the plans and estimates.

50. *Invitation of tenders.*—(1) The Chief Engineer of the Authority shall invite sealed tenders for every contract for execution of works except in the case of following works:—

(i) works of which the estimated cost does not exceed Rs. 5,000 and works of a very urgent nature taken up for execution under rule 49 of these rules; and

(ii) works which are proposed to be entrusted for execution to beneficiaries and voluntary organisations in which case the contract amount should not exceed the estimated amount.

(2) In the case of works falling under clause (i) of sub-rule (1), the Chief Engineer of the Authority or an officer authorised

by him may arrange for their execution through contractors on the basis of short notice quotations or Departmentally and in exceptional cases after negotiations with contractors.

51. *Publication of tenders.*—(1) Tenders shall be invited by giving wide publicity and giving not less than 10 days time for the investigation required by intending tenderers.

(2) Notice inviting tenders shall be published on the notice board of the Authority. Besides such publication, the Chief Engineer shall, if the cost of works exceeds Rs. 10,000 and in other cases if so directed by the Authority advertise the tender notice in chit form in one or more newspapers.

52. *Acceptance of tenders.*—(1) Authorities competent to accept tenders for works shall be the authorities competent to give administrative sanction for works.

(2) The tenders shall be opened by the Chief Engineer of the Authority or the officer authorised by him at the time appointed in that behalf in the presence of such tenderers or their agents as may be present.

(3) Tenders shall be subsequently tabulated by the Chief Engineer of the Authority or the officer authorised by him and shall be placed before the competent authority for acceptance.

(4) Other things being equal, the lowest tender shall ordinarily be accepted and where it is considered undesirable to accept the lowest tender, the reasons shall be clearly recorded in writing and made available for the purpose of audit.

53. *Departmental execution.*—The Authority may determine either generally for any class of cases or specially for any particular case whether the Chief Engineer of the Authority shall execute the works by contract or otherwise.

54. *Purchase of stores.*—No purchase of stores and articles involving expenditure exceeding one thousand rupees shall be made otherwise than by inviting quotations:

Provided that preference will be given to State or Central Government Industrial or Commercial Undertakings as well as Co-operative Societies and they will be given a price preference of 10 or 15%. Provided also that the invitation of quotations may be dispensed within the following cases, namely:—

(a) Supply of materials and goods of which the price is fixed by the Government by any rule or order in force;

(b) Supply of materials and goods by a firm which has subsisting rate contract with Government or the Director General of Supplies and Disposals, New Delhi for supply of such materials and goods (at the rate so fixed).

(c) Supply of materials and goods of standard specifications of which the manufacture or sale is undertaken exclusively in a firm of standing and the supply is required from such firm.

55. *Power to acquire and utilise the land.*—(1) No land will be acquired for purposes other than for the implementation of the Town Planning Schemes prepared under the Act or for any other public purpose and land so acquired will be utilised for the purpose for which it has been acquired.

(2) In the case of Government lands transferred to the Authority, the Authority shall utilise the land as per the terms and conditions of the transfer as laid down in the Government Order.

56. *Power to dispose of land.*—The Authority may retain or may lease, sell, exchange or otherwise dispose of any land vested in it or acquired by it for implementation of Town Planning Schemes:

Provided that the Authority shall obtain the prior approval of Government for the sale, lease, exchange, mortgage or disposal of the whole or substantially the whole of undertaking of the Authority.

57. *Maintenance of posting registers.*—The Secretary shall cause to be maintained posting registers of receipts and expenditure in the form fixed for the purpose showing the receipts and charges for each month and the whole year. The account for each month shall be closed not later than the 15th of the following month:

Provided that the account for the month of March and for the whole year may be completed not later than the 31st of May following.

58. *Abstract of monthly account to be placed before the Authority.*—The Secretary shall cause to be prepared for each month in the prescribed form an abstract of the monthly account and place it before the Authority at the first meeting held after the account is ready. One copy of the abstracts of monthly accounts shall be forwarded to the auditor, after approval of the accounts by the Authority, on or before the last day of the following month:

Provided that in case the approval of the monthly accounts by the Authority has not been obtained by the said day, the transmission of accounts to the Auditor shall not be delayed but one copy of the resolution of the Authority shall be communicated to the auditor in due course.

59. *Annual accounts to be submitted to the Government.*—(1) At the close of each year, an annual account shall be prepared in the form fixed for the same.

(2) The annual account shall show—

(a) the amount at the credit of the Authority at the end of each year in the Treasury or Bank as per the pass books;

(b) a statement of investments made;

(c) a statement showing the outstanding debts of the Authority that is to say,—

(i) list of loans;

(ii) distribution of outstanding debt; and

(iii) brief appreciation of the prospects and repayment of debt, shown as outstanding against individual works and schemes.

(3) Where the amount at the credit of the Authority at the end of any year as per the pass books differs from the amount shown in the books of the Authority a reconciliation statement shall be attached to the annual account.

(4) The annual account prepared under this rule shall be laid before the Authority at its first meeting to be held after the preparation of the account.

(5) A copy of the annual account after consideration and approval by the Authority, shall be submitted to the Government and auditor not later than the 30th June of the following year.

60. *Bond or agreement necessary for security deposits.*—Security deposits whether made in cash or in the form of interest bearing securities, shall be covered by a bond or agreement and shall be recorded in the register of deposits or the register of securities, as the case may be. All the interest bearing securities shall be pledged in favour of the Secretary.

61. *Repayment of security deposits.*—Without the special orders of the Secretary or the officer authorised by him no security deposit shall be repaid or retransferred to the depositor or otherwise disposed of except in accordance with the terms of his agreement or bond.

62. *Deposits.*—The deposits shall be noted in registers of deposits opened and maintained for the purpose in the forms as may be prescribed by the Authority.

63. *Lapsed deposits.*—In the accounts for March each year, the following classes of items in the register of deposits shall be credited to the Authority funds as lapsed deposits:—

(a) original deposits not exceeding one rupee in each individual case remaining outstanding for one whole account year;

(b) balance not exceeding one rupee of items partly cleared during the year,

(c) balance unclaimed for more than three complete years.

64. *Lapsed or forfeited deposits not to be refunded without sanction.*—Deposits treated as lapsed or forfeited under the provisions of an agreement or bond shall not be refunded without the sanction of the Authority. Every claim to a refund shall be made in the form fixed for the purpose by Authority.

65. *Register of investments.*—Details of all investments from the funds of the Authority including fixed deposits with a bank, shall be entered in a register of investments to be maintained in the form as may be prescribed by the Authority. The register shall be reviewed by the Secretary early in April and early in October every year.

66. *Register of stamps.*—In order to enable a check to be kept on the value and number of postage stamps expended upon the business of the Authority, a register of stamps shall be maintained in the prescribed form in which the receipts and issues of stamps shall be recorded as they occur. At the close of each day the balance of stamps shall be verified and a certificate of verification recorded in the register by an officer authorised by the Secretary in this behalf.

67. *Irrecoverable items and written off cases.*—All dues which are found to be irrecoverable and which are proposed to be written off shall be reported to the Authority by the Secretary and the sanction of the Authority obtained to write them off;

Provided that the Secretary shall have power to write off losses not exceeding rupees one thousand without the sanction of the Authority and the Authority shall have powers to write off losses exceeding rupees one thousand but not exceeding rupees ten thousand.

(2) In all cases where the value to be written of exceeds rupees ten thousand, orders of the Government shall be obtained.

(3) A register of written off cases shall be maintained in the form fixed by the Authority.

Chapter VII

AUDIT OF THE ACCOUNTS OF THE AUTHORITY

68. *Annual audit of Accounts.*—(1) The Accounts of the Authority shall be subject to audit by the Examiner of Local Fund Accounts:

Provided that the Accountant General (Kerala) may also audit the accounts from time to time as and when considered necessary by the Government.

(2) The said auditors shall have the same right and privileges and authority in connection with the audit of Government accounts and in particular, shall have the right to demand the production of books, accounts,

connected vouchers, and other documents and papers which they believe necessary for the elucidation of the accounts.

(3) The auditor shall—

(a) report to the Authority and to the Government any material impropriety or irregularity which he may observe in the expenditure or of the recovery of money due to the Authority or in the accounts;

(b) furnish to the Authority such information as it may from time to time require, concerning the progress of audit;

(c) report to the Chairman any loss or waste of money or other property owned by or vested in the Authority caused by the neglect or misconduct, with the names of persons directly or indirectly responsible for such loss or waste; and

(d) furnish to the Chairman, a final statement of audit and duplicate copy thereof to Government within a period of six months from the end of the year or within such other period as the Government may allow in this behalf.

(4) (a) The auditor shall report to the Government and to the Authority about every item of deficiency or loss and shall furnish the name or names of the person or persons who authorised or effected the illegal payment and of the persons by whose negligence or misconduct such deficiency or loss has been caused.

(b) On receipt of the report of the Auditor the Authority may after due inquiry provisionally fix the responsibility on the person or persons found on such inquiry to be responsible for such deficiency or loss and thereafter action may be taken.

(i) in the case of persons of whom the appointing authority is the Secretary, by the Secretary;

(ii) in the case of persons of whom the appointing authority is the Chairman, by the Chairman;

(iii) in the case of persons of whom the appointing authority is the Authority, by the Authority; and

(iv) in the case of the Secretary and the Chairman, by the Government.

(c) The Secretary or the Chairman or the Authority or the Government, as the case may be, shall, after giving the person or persons concerned an opportunity of being heard and after such further inquiry as may be considered necessary by order decide the matter stating the reasons therefor in writing and communicate such order to the person or persons concerned by registered post.

(d) Any person aggreived by any order of the Secretary, the Chairman or the Authority under clause (c) may, within fourteen days of the

receipt of the order apply to the Government to set aside the order and the Government may after such inquiry as they think necessary, confirm, modify or set aside the order.

(e) The Government may, on application made by any person aggrieved by their order under clause (c), within a period of sixty days from the date of receipt by him of that order, review such order.

69. *Authority to remedy defects pointed out by auditor.*—It shall be the duty of the Authority to remedy any defects or irregularities that may be pointed out by the audiior.

CHAPTER VIII

MISCELLANEOUS

70. *Delegation of powers.*—(1) The Chairman may, by general or special order in writing, delegate to any Member or any Officer of the Authority any of his powers, duties or functions under these rules.

(2) The exercise or discharge by any Member or Officer of any powers, duties or functions delegated to him under sub-rule (1) shall be subject to such restrictions, conditions and limitations as may be laid down by the Chairman and shall also be subject to his control and revision.

71. *Institution of Civil and Criminal action.*—The Secretary may—

(a) take, or withdraw from, proceedings against any person who commits—

(i) any offence against the Act, the Rules, bye-laws, schemes or regulations;

(ii) any offence which affects or is likely to affect any property or interest of the Authority or the due administration of the Act;

(iii) any nuisance whatsoever;

(b) compound any offence against the Act, the rules, bye-laws, schemes or regulations;

(c) take, withdraw from or compromise, proceedings for the recovery of expenses or compensation claimed to be due to the Authority;

(d) withdraw or compromise any claim against any person in respect of a penalty payable under a contract entered into with such person by the Secretary or any other officer of the Authority;

(e) defend any suit or other legal proceedings brought against the Authority, Officer or servant in respect of anything done or omitted to be done in its or his official capacity;

(f) compromise any claim, suit or legal proceedings brought against the Authority or against any officer or servant in respect of anything done or omitted as aforesaid;

(g) institute and conduct any suit or withdraw or compromise any suit or claim which has been instituted or made in the name of Authority or any officer;

(h) obtain such legal advice and assistance as may from time to time think it necessary or expedient to obtain for lawful exercise or discharge of any power or duty vesting in or imposed upon the Authority or officer or servant.

72. *Application to construct or reconstruct building.*— (1) Any person who desires to obtain permission under section 15 of the Town Planning Act, 1108 or section 17 of the Madras Town Planning Act, 1920 shall make an application in writing to the Secretary.

(2) Every application under sub-rule (1) shall contain such particulars and be prepared in such manner as may be required under the Kerala Municipal Building Rules, 1968 made by the Government under Kerala Municipalities Act 1960 and Kerala Municipal Corporations Act, 1960.

73. *Fee to be paid on application for permission.*—Every application for permission under section 15 of the Town Planning Act, 1108 or Section 17 of the Madras Town Planning Act, 1920 shall be accompanied by a fee of—

1. Residential buildings (Tile or Terraced):

   Ground floor Rs. 1.00/10 sq. m.

   First floor Rs. 2.00/10 sq. m.

   Second floor Rs. 2.50/10 sq. m.

   Third floor and above Rs. 3.75/sq. m.

2. Industrial and commercial buildings:

   (Tiled or Terraced)

   Ground floor Rs. 1.25/10 sq. m.

   First floor Rs. 2.50/10 sq. m.

   Second floor Rs. 3.25/10 sq. m.

   Third floor and above Rs. 5.00

3. Compound wall Rs. 2.00/30 r.m.

4. Bath and closet: Free

5. Transfer of land in the area: Rs. 1.00/Transfer

6. No objection certificate for construction and for the transfer of land outside scheme areas: Rs. 3 application.

A fee equal to 50% of the original fees will be levied with reference to the building applications in cases where parties revise their original application after getting sanction thereto.

74. *Stamping signature on notices or bills.*—Every notice or bill, which is required by the Act or any rule or regulations to bear the signature of the Chairman, Secretary or any officer shall be deemed to be properly signed if it bears facsimile of the signature of the Chairman, Secretary or such officer, as the case may be, stamped thereon.

75. *Service how effected.*—When a notice or other document is required by the Act or any rule made under it to be served on or sent to a person the services or sending thereof may be effected —

(a) by giving or tendering the said document to such person, or

(b) if such person is not found, by leaving such document on his last known place of abode or business or by giving or tendering the same to his agent or servant or some adult member of his family, or

(c) if such person's address elsewhere is known to the Secretary, by sending the same to him by registered post, or

(d) if none of the means of aforesaid be available by affixing the same in some conspicuous part of such place of abode or business.

(2) When the person is an owner or occupier of any building or land it shall not be necessary to name the owner or occupier in the document, and in the case of joint owners or occupiers it shall be sufficient to serve it on or send it to one of such owners or occupiers.

76. Notwithstanding anything contained in these rules, or any other rules, the Government shall have powers to give any direction whatsoever to the Authority and the Authority shall be bound to act as per the directions.

By order of the Governor,

S. Krishna Kumar,
Additional Secretary.

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1977

Reg. No. KL/TV/12

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

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GOVERNMENT OF KERALA

Public Works (D) Department

ERRATUM TO SECTION 6 DECLARATION

No. 739/D1/77/PW. *Dated, Trivandrum, 6th January 1977.*

In the schedule to the declaration under section 6 of the Kerala Land Acquisition Act, 1961 (Act 21 of 1962) relating to the acquisition of land for widening and strengthening of N. H. 47 from kms 434 to 444 in Kumarapuram Village of Karthigappally Taluk published by Government in Notification No. 49768/B5/72/PW dated 14-12-1972 of Kerala Extraordinary Gazette No. 752 dated 14-12-1972 for the existing entries read as below:

നാഷണൽ ഹൈവേ 434 മുതൽ 444 വരെയുള്ള കിലോമീറ്ററിനുള്ളിൽ കാർത്തികപ്പള്ളി താലൂക്കിൽ കുമാരപുരം വില്ലേജിൽ ഉൾപ്പെടുന്ന ഭൂമി നാഷണൽ ഹൈവേയുടെ വിപുലീകരണത്തിനും ബലപ്പെടുത്തലിനും വേണ്ടി പൊന്നുംവിലയ്ക്ക് എടുക്കുന്നതിനെ സംബന്ധിച്ച് ഗവൺമെൻറ

14-12-1972-ൽ 49768/B5/72/PW-ാം നമ്പരായി അംഗീകരിച്ച് 14-12-1972-ലെ 752-ാം നമ്പർ അസാധാരണ ഗസററിൽ ഉള്ള പ്രഖ്യാപനത്തിൻെറ പട്ടികയിൽ താഴെ കാണിക്കുന്ന ഭേദഗതികൾ വരുത്തി വായിക്കേണ്ടതാണ്:

For			Read		
Sy. No.	*Description*	*Extent*	*Sy. No.*	*Description*	*Extent*
550/2	Dry	0.0032	550/3	Dry	0.0032
615/2	,,	0.0028	615/3	,,	0.0060
615/4	,,	0.0051	615/4	,,	0.0028

By order of the Governor,

M. C. RAJA RAJA VARMA,

Deputy Secretary to Government.

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KERALA GAZETTE

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GOVERNMENT OF KERALA

Public Works (Transport-B) Department

NOTIFICATION

No. 74514/TB2/76/PW. *Dated, Trivandrum, 11th January 1977.*

Whereas in exercise of the powers conferred by clause (1) of article 258 of the Constitution, the President has in Notification No. 2/4/63/Judl. II dated 31-5-1963 entrusted the Government of Kerala with their consent the functions of the Central Government, under the Kerala Land Acquisition Act, 1961 (Act 21 of 1962) in relation to the acquisition of land for the purposes of the Union, in the Kerala State.

And whereas it appears to the Government of Kerala that the land specified in the Schedule below is needed or is likely to be needed for a public purpose, to wit for doubling rail track between Wadakkancherry and Mulangunnathukavu. Notice to that effect is hereby given to all whom it may concern, in accordance with the provisions of Section 3 (1) of the said Act.

Under sub section (4) of Section 19 of the said Act, the Government direct that in view of the urgency of the case, the provisions of Section 5 of the Act shall not apply to this case.

ഭരണഘടന 258–ാം വകുപ്പ് 1–ാം ഖണ്ഡത്താൽ നൽകപ്പെട്ട അധികാരങ്ങൾ വിനിയോഗിച്ച് രാഷ്ട്രപതി യൂണിയന്റെ ആവശ്യങ്ങൾക്കായി കേരള സംസ്ഥാനത്ത് ഭൂമി വിലയ്ക്കെടുക്കുന്നത് സംബന്ധിച്ചിടത്തോളം

1961-ലെ കേരള സ്ഥലമെടുപ്പ് ആക്ററ് (1962-ലെ 21-ാം ആക്ററ്) പ്രകാരം കേന്ദ്ര ഗവൺമെൻറിൻെറ പ്രവൃത്തികരം 31-5-1963-ാം തീയതിയിലെ 2/4/63/Judl. II നമ്പർ പരസ്യപ്രകാരം കേരള ഗവൺമെൻറിനെ ആ ഗവൺമെൻറിൻെറ സമ്മതത്തോടുകൂടി ഭരമേൽപ്പിച്ചിരിക്കുകയാലും,

താഴെ കാണിച്ചിരിക്കുന്ന പട്ടികയിൽ വിവരിച്ചിട്ടുള്ള ഭൂമി ഒരു പൊതുക്കാര്യത്തിന്, അതായത് വടക്കാഞ്ചേരിക്കും മുളങ്കുന്നത്തുകാവിനും ഇടയ്ക്ക് റയിൽവേപ്പാത ഇരട്ടിപ്പിക്കുന്നതിന് ആവശ്യമുണ്ടെന്നോ, ആവശ്യമുണ്ടാകാനിടയുണ്ടെന്നോ കേരള ഗവൺമെൻറിന് തോന്നുന്നതിനാലും അതിനുള്ള നോട്ടീസ് അതു സംബന്ധിക്കുന്ന എല്ലാവർക്കും ടി ആക്ട് 3 (1) എന്ന വകുപ്പിലെ വ്യവസ്ഥകരം അനുസരിച്ച് ഇതിനാൽ നൽകിയിരിക്കുന്നു.

മേൽ ആക്ററ് 19 (4) എന്ന വകുപ്പുപ്രകാരം ഗവൺമെൻറ് സംഗതിയുടെ അടിയന്തിരസ്ഥിതിയെ പരിഗണിച്ച് 5-ാം വകുപ്പിലെ വ്യവസ്ഥകരം ഈ കേസ്സിൽ ബാധകമല്ലെന്ന് നിർദ്ദേശിച്ചിരിക്കുന്നു.

SCHEDULE

District.—Trichur

Taluk.—Talappilly. *Village or Amsom and Desom.*—Minalur.

(The extent given is approximate)

Sl. No.	*Sy. No.*	*Description*	*Extent in Hectares*
1.	75/part	Wet	0.0355
2.	70/2 part	Wet	0.0375
3.	763	Dry now wet	0.0040
			0.0770

By order of the Governor,

N. R. AUGUSTINE,

Joint Secretary to Government.

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Reg. No. KL/TV/12

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXII] Trivandrum, Thursday, 13th January 1977 / 23rd Pousha 1898 [No. 23

NOTICE

UNDER SECTION 9 (5) OF THE KERALA LAND ACQUISITION ACT, 1961

(ACT 21 OF 1962)

No. B2-61/74. *11th January 1977.*

Notice is hereby given that the Government intend to take possession of the lands mentioned in the list below, which are required for a public purpose under the Kerala Land Acquisition Act, 1961 (Act 21 of 1962). All persons interested in the lands are required to appear in person or by authorised agent on 28-1-1977 at 11 a. m. before the Special Tahsildar No. II for L. A., Railways, Trivandrum, at the Pallichal Village Office and to state/put in a statement in writing signed by themselves or their agents showing the nature of their respective interests in the lands and the amount and particulars of their claim to compensation for such interests in the lands and their objections, if any to the measurements made under section 8 of the Act.

Note:—If the persons interested refuse to make a claim to compensation or omit without sufficient reasons, to make such claim, the amount to be awarded by the Court, in the event of a reference being made to it on application made by them shall in no case exceed the amount awarded by the Collector under Section 11 of the Act.

താഴെ കൊടുത്തിരിക്കുന്ന ലിസ്റ്റിൽ പറഞ്ഞിട്ടുള്ളതും 1961-ലെ കേരള സ്ഥലമെടുപ്പ് ആക്റ്റ് (1962-ലെ 21-ാം ആക്റ്റ്) പ്രകാരം ഒരു പൊതു ക്കാര്യത്തിന് ആവശ്യമായിട്ടുള്ളതുമായ ഭൂമി കൈവശപ്പെടുത്തുവാൻ ഗവൺമെൻറുദ്ദേശിക്കുന്നുവെന്ന് ഇതിനാൽ നോട്ടീസ് നൽകിയിരിക്കുന്നു.

33/121/MC.

പ്രസ്തുത ഭൂമിയിൽ അവകാശബന്ധമുള്ള എല്ലാപേരും നേരിട്ടോ, അധികൃത ഏജന്റുമൂലമോ 28-1-1977 പകൽ 11 മണിക്ക് പള്ളിച്ചൽ വില്ലേജാഫീസിൽ പൊന്നുംവില തഹശീൽദാർ നമ്പർ II മുമ്പാകെ ഹാജരാകുകയും ഭൂമിയിൽ അവരോരോരുത്തർക്കുമുള്ള അവകാശബന്ധങ്ങളുടെ സ്വഭാവവും ഭൂമിയിൽ അങ്ങനെയുള്ള അവകാശബന്ധങ്ങൾ സംബന്ധിച്ചിടത്തോളം നഷ്ടപ്രതിഫലത്തിന് അവർക്കുള്ള തേർച്ചയുടെ തുകയും വിവരങ്ങളും ആക്റ്റ് 8-ാം വകുപ്പുപ്രകാരം എടുത്തിട്ടുള്ള അളവു സംബന്ധിച്ച് വല്ല ആക്ഷേപവുമുണ്ടെങ്കിൽ അതും ഏതാണെന്നു കാണിച്ചുകൊണ്ട് പ്രസ്താവന ചെയ്യുകയും, അവരോ അവരുടെ ഏജന്റുമാരോ എഴുതി ഒപ്പിട്ട ഒരു സ്റ്റേറ്റ്മെന്റ് സമർപ്പിക്കുകയും ചെയ്യണമെന്ന് അവരോട് ആവശ്യപ്പെടുന്നു.

കുറിപ്പ്:—അവകാശബന്ധമുള്ളവർ നഷ്ടപ്രതിഫലത്തിന് തേർച്ചചെയ്യാൻ കൂട്ടാക്കാതിരിക്കുകയോ, മതിയായ കാരണമില്ലാതെ അങ്ങനെ തേർച്ചചെയ്യാൻ വീഴ്ച ചെയ്യുകയോ ചെയ്യുന്നപക്ഷം അവരുടെ അപേക്ഷയിൻമേൽ കോടതിക്ക് റഫറൻസ് അയയ്ക്കുന്ന സംഗതിയിൽ കോടതി വിധിച്ചുകൊടുക്കേണ്ട തുക യാതൊരു സംഗതിയിലും ആക്റ്റ് 11-ാം വകുപ്പുപ്രകാരം കളക്ടർ വിധിച്ചുകൊടുക്കുന്ന തുകയിൽ കവിയാൻ പാടില്ലാത്തതാകുന്നു.

Particulars of lands

District—തിരുവനന്തപുരം.

Taluk—നെയ്യാററിൻകര.

Village—പള്ളിച്ചൽ.

Description—പുരയിടം.

Survey No.	*Extent* *Are*	*Extent* *Sq.m.*
212/3-14	00	70
212/2-13	00	35
212/3-13	01	53

(Sd.)

Special Tahsildar No. II for Land Acquisition, Railways.

Trivandrum.

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KERALA GAZETTE

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NOTICES

Under Section 9 (5) of the Kerala Land Acquisition Act, 1961 (Act 21 of 1962)

Notice is hereby given that the Government intend to take possession of the lands mentioned in the list below, which are required for a public purpose under the Kerala Land Acquisition Act, 1961 (Act 21 of 1962). All persons interested in the lands are required to appear in person or by authorised agent on the date, time and place noted below and to state/put in a statement in writing signed by themselves or their agents showing the nature of their respective interests in the lands and the amount and particulars of their claim to compensation for such interests in the lands and their objections, if any, to the measurements made under section 8 of the Act.

Note.—If the persons interested refuse to make a claim to compensation or omit without sufficient reasons, to make such claim, the amount to be awarded by the Court, in the event of a reference being made to it on application made by them shall in no case exceed the amount awarded by the Collector under section 11 of the Act.

താഴെ കൊടുത്തിരിക്കുന്ന ലിസ്റ്റിൽ പറഞ്ഞിട്ടുള്ളതും, 1961-ലെ കേരള സ്ഥലമെടുപ്പ് ആക്റ്റ് (1962-ലെ 21-ാം ആക്റ്റ്) പ്രകാരം ഒരു പൊതുകാര്യത്തിന് ആവശ്യമായിട്ടുള്ളതുമായ ഭൂമി കൈവശപ്പെടുത്തുവാൻ ഗവൺമെന്റ് ഉദ്ദേശിക്കുന്നുവെന്ന് ഇതിനാൽ നോട്ടീസ് നൽകിയിരിക്കുന്നു. പ്രസ്തുത ഭൂമിയിൽ അവകാശബന്ധമുള്ള എല്ലാപേരും നേരിട്ടോ, അധികൃത ഏജന്റ് മുഖേനയോ താഴെ പറയുന്ന തീയതിയിലും സമയത്തും സ്ഥലത്തും ഹാജരാകുകയും ഭൂമിയിൽ അവരോരോരുത്തർക്കുമുള്ള അവകാശബന്ധങ്ങളുടെ സ്വഭാവവും ഭൂമിയിൽ അങ്ങനെയുള്ള അവകാശ

ത്തോളം നഷ്ടപ്രതിഫലത്തിന് അവർക്കുള്ള തീർച്ചയുടെ തുകയും വിവരങ്ങളും ആക്റ്റ് 8-ാം വകുപ്പു പ്രകാരം എടുത്തിട്ടുള്ള അളവു സംബന്ധിച്ച് വല്ല ആക്ഷേപവുമുണ്ടെങ്കിൽ അതും ഏതാണെന്നു കാണിച്ചുകൊണ്ട് പ്രസ്താവന ചെയ്യുകയും അവരോ, അവരുടെ ഏജന്റുമാരോ എഴുതി ഒപ്പിട്ട ഒരു സ്റ്റേറ്റുമെന്റ് സമർപ്പിക്കുകയും ചെയ്യണമെന്ന് അവരോട് ആവശ്യപ്പെടുന്നു.

കുറിപ്പ്.— അവകാശബന്ധമുള്ളവർ നഷ്ടപ്രതിഫലത്തിന് തീർച്ചചെയ്യാൻ കൂട്ടാക്കാതിരിക്കുകയോ, മതിയായ കാരണമില്ലാതെ അങ്ങനെ തീർച്ച ചെയ്യാൻ വീഴ്ച ചെയ്യുകയോ ചെയ്യുന്ന പക്ഷം അവരുടെ അപേക്ഷയിന്മേൽ കോടതിക്ക് റഫറൻസ് അയയ്ക്കുന്ന സംഗതിയിൽ കോടതി വിധിച്ചുകൊടുക്കേണ്ട തുക യാതൊരു സംഗതിയിലും ആക്റ്റ് 11-ാം വകുപ്പു പ്രകാരം കളക്റ്റർ വിധിച്ചുകൊടുക്കുന്ന തുകയിൽ കവിയാൻ പാടില്ലാത്തതാകുന്നു

(1)

B1-225/73. *12th January 1977.*

Date, time and place of appearance.—On 29-1-1977 at 11 a. m. before the Special Tahsildar No. III for L. A., Railways, Trivandrum, at the Villag Office, Chengazhasseri.

Particulars of landS

District—Trivandrum

Taluk—Trivandrum *Village*—Chengazhasseri.

Survey No.	*Description*	*Extent* *Ares*	*Sq. m.*
1336/1	Dry land	01	..
1336/2	,,	01	10

(2)

B1-701/74 *12th January 1977.*

Date, time and place of appearance.—On 31-1-1977 at 11 a. m. before the Special Tahsildar No. III for L. A., Railways, Trivandrum.

Particulars of lands

District.—Trivandrum

Taluk—Chirayinkil *Village*—Cherunniyoor.

Survey No.	*Description*	*Extent* *A.*	*Sq. m.*
208/3	Dry land	04	97
2090/26	,,	04	65

(Sd.)

Trivandrum. *Special Tahsildar, No. III for L. A. Railways.*

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GOVERNMENT OF KERALA

Water and Power Department

ORDER

No. 28996/B1/76/W&P. *Dated, Trivandrum, 13th January 1977.*

Whereas the Electrical Division Office and the Division Stores of the Kerala State Electricity Board at Irinjalakuda is at present situated in a building known as 'Peruvallypadom Bungalow' and the compound thereof more particularly described in the Schedule annexed to this Order;

And whereas the Hon'ble High Court of Kerala has ordered that the Executive Engineer, Electrical Division, Irinjalakuda, should vacate the said building not later than the 15th January 1977;

And whereas there is no other suitable building and premises available at Irinjalakuda to accommodate the said Electrical Division Office and also the Stores;

And whereas the Government of Kerala are satisfied that if the said Office and Stores could not be accommodated in the said building known as 'Peruvallypadom Bungalow' and in the properties described in the Annexure, it is not possible for the Division

Office and the Stores to function at Irinjalakuda for want of accommodation, which would hamper the supply and distribution of electrical energy in and around a vast area of Irinjalakuda and that the entire electrical distribution system will be thrown out of gear adversely affecting power-oriented agricultural operations causing hardship and inconvenience to innumerable consumers both domestic and industrial in and around Irinjalakuda, thereby affecting the working of a large number of industrial units there;

And whereas in the opinion of the Government of Kerala it is necessary to requisition the said building and compound described in the Annexure for maintaining the supply and distribution of electrical energy and maintenance, reinforcements and laying down of electrical supply lines for supply and distribution of electrical energy which are essential to the life of the community;

Now, therefore, in the exercise of the powers conferred by Section 23 of the Defence and Internal Security of India Act, 1971 (Central Act 42 of 1971) the Government of Kerala hereby requisition the said building and compound described in the Annexure for a period of one year from the date of this Order, and the Government hereby further direct the Executive Engineer, Electrical Division, Kerala State Electricity Board, Irinjalakuda, to retain possession of the building and the compound from 15th of January 1977 for the said period of one year.

By order of the Governor,

V. P. KRISHNA KUMAR,

Joint Secretary.

SCHEDULE

1.	Name of the Building:	Peruvallipadam Bungalow.
2.	Municipal Number of the Building:	Building No. VII/114 of Irinjalakuda Municipality.
3.	Taluk:	Mukundapuram.
4.	Village:	Manavalassery.
5.	Survey Number:	668/2 (Part).
6.	Extent:	3.56 acres.
7.	Boundaries:	North—Part of land in S. No. 668/2, West—Solvent Road, South—'Thodu', East—Vettiattil House.

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EXTRAORDINARY

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Vol. XXII] Trivandrum, Thursday, 13th January 1977 / 23rd Pousha 1898 [No. 21

GOVERNMENT OF KERALA

Law Department

NOTIFICATION

No. 496-Leg. (A)1/77/Law. *Dated, Trivandrum, 13th January, 1977/ 23rd Pousha, 1898.*

The following Ordinance promulgated by the Governor on the 13th day of January, 1977, is hereby published for general information.

By order of the Governor,

K. VISWANATHAN NAIR,
Additional Law Secretary.

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1977

ORDINANCE No. 1 OF 1977

THE KERALA DEBT RELIEF ORDINANCE, 1977

Promulgated by the Governor of Kerala in the Twenty-seventh Year of the Republic of India.

AN

ORDINANCE

to provide relief from indebtedness to certain persons in the State of Kerala.

Preamble.—WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

AND WHEREAS instructions from the President have been obtained in pursuance of the proviso to clause (1) of article 213 of the Constitution of India;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Kerala Debt Relief Ordinance, 1977.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once.

2. *Definitions.*—In this Ordinance, unless the context otherwise requires,—

(1) "appellate authority" means an appellate authority appointed under section 6;

(2) "agricultural land" means land used for agriculture or horticulture, not being land appurtenant to a residential building;

(3) "artisan" means a person who does not hold any agricultural land and whose principal means of livelihood is production or repair of traditional tools, implements and other articles or things used for agriculture or purposes ancillary thereto and includes a person who normally earns his livelihood by practising craft, either by his own labour or by the labour of the members of his family, in a rural area.

Explanation.—For the purposes of this clause, "rural area" means an area which for the time being is not within the limits of a city constituted under the Kerala Municipal Corporations Act, 1961 or a Municipality constituted or deemed to be constituted under the Kerala Municipalities Act, 1960;

(4) "creditor" shall include the heirs, legal representatives and assigns of the creditor;

(5) "debt" means any liability in cash or kind, whether secured or unsecured, due from or incurred by a debtor on or before the date of commencement of this Ordinance, whether payable under a contract, or under a decree or order of any court, or otherwise, and subsisting on that date, but does not include—

(a) any sum payable to—

(i) the Government of Kerala or the Government of India or the Government of any other State or Union Territory in India or any local authority; or

(ii) the Reserve Bank of India or the State Bank of India or any subsidiary bank within the meaning of clause (k) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959 or the Travancore Credit Bank (in liquidation) constituted under the Travancore Credit Bank Act, IV of 1113; or

(iii) a corporation owned or controlled by the Government of Kerala or the Government of any other State or Union Territory in India or the Government of India, or a Government Company as defined in the Companies Act, 1956; or

(iv) the Tea Board constituted under the Tea Act, 1953, or the Coffee Board constituted under the Coffee Act, 1942, or the Rubber Board constituted under the Rubber Act, 1947, or the Cardamom Board constituted under the Cardamom Act, 1965; or

(v) any co-operative society, including a Land Mortgage Bank, registered or deemed to be registered under the Co-operative Societies Act for the time being in force; or

(b) any sum payable to any corresponding new bank specified in column (2) of the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970; or

(c) any liability arising out of a breach of trust or any tortious liability; or

(d) any liability in respect of maintenance, whether under a decree of court or otherwise; or

(e) any liability in respect of wages or remuneration due as salary or otherwise for services rendered; or

(f) any debt which represents the price of goods purchased; or

(g) any liability for which a charge is provided under sub-clause (b) of clause (4) of section 55 of the Transfer of property Act, 1882; or

(h) any rent payable in respect of any building; or

(i) any rent or michavaram payable in respect of any land; or

(j) any debt or debts due to a widow at the commencement of this Ordinance, provided that the value of the property owned by her at such commencement, including the principal amount of the debt or debts so due [illegible]

Explanation.—For the purposes of this sub-clause, the house in which the widow lives, her wearing apparel or similar personal belongings shall not be regarded as property; or

(k) any liability incurred or arising under a chitty or kuri which is registered or licensed under the Travancore Chitties Act, 1120, or the Cochin Kuries Act, VII of 1107, or the Kerala Chitties Act, 1975, or conducted under any chit fund scheme, and which has not terminated one year before the commencement of this Ordinance:

Provided that nothing in this sub-clause shall apply to the liability of a foreman incurred or arising under any such chitty or kuri where the foreman is a co-operative society registered or deemed to be registered under the Co-operative Societies Act for the time being in force.

Explanation.—For the purposes of this sub-clause, a chitty or kuri shall be deemed to have terminated—

(i) when the period fixed in the variola or vaimbu or kuripattika or the period as altered by a subsequent special resolution for the duration of the chitty or kuri, has expired; or

(ii) when the legal representative of a deceased foreman or the guardian of a foreman of unsound mind or the subscriber or subscribers selected therefor fails or fail to conduct the chitty or kuri or to make suitable arrangements for the further conduct of the chitty or kuri; or

(iii) on the failure of the foreman to pay the prize amount to the subscriber within one month from the due date thereof; or

(iv) on the failure of the foreman or foremen to conduct the chitty or kuri at any instalment or on any other date before the next instalment as may be agreed upon in writing by a majority of the non-prized subscribers:

Provided that if there are more foremen than one and one or more of such foremen is or are living and is or are not disqualified to conduct the chitty or kuri, the chitty or kuri shall not be deemed to have terminated if there is provision in the variola or vaimbu or kuripattika enabling the remaining foreman or foremen to conduct the chitty or kuri or if the non-prized subscribers agree by a special resolution to the conduct of the chitty or kuri by the remaining foreman or foremen; or

(l) any debt due to any banking company as defined in the Banking Regulation Act, 1949; or

(m) any amount due on account of any goods to a financier who financed the purchase of such goods and whose principal business is to finance the purchase of goods; or

(n) any sum advanced for the purposes of agriculture by any institution receiving financial assistance from the Agricultural Re- ... established under the

Explanation I.—For the purposes of this clause,—

(i) the liability of a surety who is a debtor shall be deemed to be a debt within the meaning of this Ordinance notwithstanding that the principal debtor is not a debtor for the purposes of this Ordinance;

(ii) where a debt has been split up in any manner whatsoever, whether before or after the commencement of this Ordinance, and fresh documents have been executed in respect of different portions of the debt, each such different portion shall be a debt.

Explanation II.—Where the debt is a liability in kind, the value of the commodity shall be commuted at the market rate prevailing on the date on which the debt was incurred;

(6) "debtor" means any person whose annual income does not exceed two thousand and four hundred rupees, from whom any debt is due and includes—

(a) a landless labourer;

(b) an artisan; and

(c) a kudikidappukaran,

but does not include—

(i) any person assessed to sales-tax on a turnover which in the aggregate is not less than twenty thousand rupees in any two years within the three years immediately preceding the commencement of this Ordinance, under the Kerala General Sales Tax Act, 1963, or the Central Sales Tax Act, 1956, or the law of any other State relating to sales tax;

(ii) any person assessed to income-tax under the Income-tax Act, 1961, in any two years within the three years immediately preceding the commencement of this Ordinance and whose total income for the purposes of the said Act exceeded eight thousand rupees per annum;

(iii) any person assessed to agricultural income-tax in any two years within the three years immediately preceding the commencement of this Ordinance, under the Agricultural Income-tax Act, 1950 or under any other law relating to agricultural income-tax on an income exceeding eight thousand rupees per annum.

Explanation.—Notwithstanding anything contained in the Indian Evidence Act, 1872, where a creditor proves that his debtor is a person assessed to the tax mentioned in sub-clause (i) or sub-clause (ii) or sub-clause (iii) for the period referred to in that sub-clause, the burden of proving that such debtor does not fall under the category specified in that sub-clause shall lie on the debtor;

(iv) a firm registered under the Indian Partnership Act, 1932, or a company as defined in the Companies Act 1956, or a corporation formed in pursuance of an Act of Parliament of the United Kingdom or of any special Indian Law.

Explanation.—For the purposes of this clause, the term "person" shall include a family, provided that sub-clauses (i) to (iii), in their application to a family consisting of not less than five members, shall have effect as if for the turnover, total income or income specified therein, twice such turnover, total income or income, as the case may be, were substituted;

(7) "family" means a Hindu undivided family or a Marumakkathayam tarwad or thavazhi or an Aliyasanthana kudumba or kavaru or a Nambudiri illom;

(8) "interest" means any amount or other thing paid or payable in excess of the principal amount borrowed or pecuniary obligation incurred, or, where anything has been borrowed in kind, in excess of what has been so borrowed, by whatsoever name such amount or thing may be called, and whether the same is paid or payable entirely in cash or entirely in kind or partly in cash and partly in kind and whether the same is expressly mentioned or not in the document or contract, if any;

(9) "kudikidappukaran" shall have the same meaning as in clause (25) of section 2 of the Kerala Land Reforms Act, 1963;

(10) "landless labourer" means a person who does not hold any agricultural land and who follows any one or more of the following agricultural occupations in the capacity of a labourer on hire or exchange, whether paid in cash, or in kind or partly in cash and partly in kind:—

(a) farming including cultivation and tillage of soil, etc.;

(b) dairy farming;

(c) production, cultivation, growing and harvesting of any horticultural commodity;

(d) raising of livestock, bees or poultry; and

(e) any practice performed on a farm as incidental to or in conjunction with farm operations (including any forestry or timbering operations) and preparation for market and delivery to storage or to market or to carriage for transportation of farm products;

(11) "pay", with its grammatical variations, includes deliver;

(12) "prescribed" means prescribed by rules made under this Ordinance;

(13) "principal amount" means the amount originally advanced together with such sum, if any, as has been subsequently advanced, notwithstanding any stipulation to treat any interest as principal and notwithstanding that the debt has been renewed or included in a fresh document, whether

by the same debtor or by his heirs, legal representatives or assigns or by a ny other person acting on his behalf or in his interest, and whether in favour of the same creditor or his heirs, legal representatives or assigns or of any other person acting on his behalf or in his interest;

(14) "Tribunal" means a Tribunal constituted under section 5.

3. *Discharge of debt.*—Notwithstanding anything contained in any other law for the time being in force, or in any contract or other instrument having force by virtue of any such law, or in any decree or order of court, with effect on and from the commencement of this Ordinance—

(a) every debt and the interest thereon payable by a debtor to a creditor shall be deemed to be wholly discharged;

(b) no civil court shall entertain any suit or other proceeding against a debtor for the recovery of any debt or part of a debt or any interest thereon;

(c) all suits and other proceedings (including appeals, revision petitions, applications for review, proceedings for attachment and execution proceedings) pending at such commencement against any debtor for the recovery of any debt shall abate:

Provided that nothing in this clause shall apply to—

(i) the sale of any movable property conducted and concluded before the commencement of this Ordinance;

(ii) the sale of any immovable property confirmed before such commencement:

Provided further that where a suit or other proceeding is instituted jointly against a debter and any other person, nothing in this section shall apply to the maintainability of such suit or other proceeding in so far as it relates to such other person;

(d) every debtor undergoing detention in a civil prison in execution of any decree for money passed against him by a civil court in respect of any debt shall be released;

(e) every movable property pledged by a debtor before the commencement of this Ordinance shall stand released in favour of such debtor and the creditor shall be bound to deliver possession of such property to the debtor;

(f) every mortgage executed by a debtor in favour of a creditor shall stand redeemed and the creditor shall be bound to deliver possession of the mortgaged property to the debtor.

Explanation I.—In this section, the term 'suit' shall not include a claim to a set off made in a suit instituted by a debtor.

Explanation II.—For the purposes of this section, a suit in which a decree in respect of a debt is prayed for shall be deemed to be a suit for the recovery

of the debt notwithstanding that other reliefs are prayed for in such suit, and a decree shall be deemed to be a decree in respect of a debt notwithstanding that other reliefs are granted in such decree:

Provided that a suit or decree for possession of land shall not be deemed to be a suit for recovery of, or a decree in respect of, a debt by reason merely of mesne profits being also prayed for or included in such suit or decree.

Explanation III.—Nothing in this section shall debar a decree holder from enforcing reliefs other than in respect of a debt, where the decree contains independent reliefs.

Explanation IV.—Nothing in this section shall be construed as entitling any debtor to the refund of any part of any debt or interest thereon already repaid by him or recovered from him before the commencement of this Ordinance.

4. *Reconveyance of property.*—(1) Any debtor entitled to the delivery of possession of any property under clause (e) or clause (f) of section 3 or any other person on behalf of such debtor may apply to the Tribunal within three months from the commencement of this Ordinance or within such further period as may be notified by the Government in this behalf, for such delivery of possession.

(2) On receipt of an application under sub-section (1), the Tribunal shall make necessary inquiries in respect of such application and, if it is satisfied that the applicant or the person on whose behalf the application has been made is entitled to the delivery of possession of the property mentioned in the application, it shall, by order, direct the person in possession of such property to deliver possession thereof to the applicant or to the person on whose behalf the application has been made, within a period of thirty days from the date of service of the order:

Provided that no order under this sub-section shall be made unless the person in possession of the property has been given a reasonable opportunity of being heard.

(3) Every order made under sub-section (2) shall be served on the person for whom it is intended,—

(a) by delivering or tendering it to that person; or

(b) if it cannot be delivered or tendered to that person, by delivering or tendering it to any officer of such person or any adult member of the family of such person or by affixing a copy thereof on the outerdoor or some conspicuous part of the premises in which that person is known to have last resided or carried on business or personally worked for gain; or

(c) failing service by any of these means, by registered post.

(4) Any person aggrieved by an order of the Tribunal under sub-section (2) may, within a period of thirty days from the date of service of the

order, prefer an appeal to the appellate authority, and the decision of the appellate authority on such appeal shall be final and shall not be called in question in any court of law:

Provided that before taking a decision on the appeal, the appellate authority shall give the opposite party an opportunity of being heard.

(5) Where an order under sub-section (2) has not been complied with, and—

(a) an appeal has not been preferred within the time allowed for such appeal; or

(b) an appeal having been preferred has been dismissed,

the Tribunal shall cause the property to which the order relates to be delivered to the debtor by putting him in possession of that property.

5. *Constitution of Tribunals.*—(1) The Government may, by notification in the Gazette, constitute for such area as may be specified therein a Tribunal for the purpose of performing the functions of a Tribunal under this Ordinance.

(2) A Tribunal shall consist of a sole member who shall be an officer not below the rank of Tahsildar appointed by the Government.

6. *Appointment of appellate authorities.*—(1) The Government may, by notification in the Gazette, appoint for such area as may be specified therein an appellate authority for the purposes of this Ordinance.

(2) An appellate authority shall be an officer not below the rank of Revenue Divisional Officer.

7. *Powers of Tribunal and appellate authority.*—(1) Every Tribunal and every appellate authority shall have the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) any other matter which may be prescribed.

(2) The decisions of the Tribunals and the appellate authorities under this Ordinance shall have the force of a decree of a civil court.

8. *Legal practitioners not to appear before Tribunals and appellate authorities.*—Notwithstanding anything contained in any law for the time being in force, no legal practitioner shall be allowed to appear in any proceedings before a Tribunal or an appellate authority under this Ordinance.

9. *Burden of proof.*—Notwithstanding anything contained in any law for the time being in force, in any suit or other proceeding, the burden of proving that a debtor is not entitled to protection under the provisions of this Ordinance shall be on the creditor.

10. *Bar of jurisdiction of civil courts.*—No civil court shall have jurisdiction to decide or deal with any question or to determine any matter which is, by or under this Ordinance, required to be decided or dealt with, or to be determined by, the Tribunal or the appellate authority.

11. *Ordinance to over-ride other laws, contracts, etc.*—The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in the Code of Civil Procedure, 1908 (Central Act 5 of 1908), or in any other law for the time being in force, or in any custom, usage or contract, or in any decree or order of a court or other authority.

12. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules for carrying out the purposes of this Ordinance.

(2) Every rule made under this Ordinance shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

13. *Repeal of Act 30 of 1975.*—The Kerala Debtors (Temporary Relief) Act, 1975 (30 of 1975), is hereby repealed.

N. N. WANCHOO,

GOVERNOR.